

**FIRST ENGROSSMENT
with Conference Committee Amendments****ENGROSSED SENATE BILL NO. 2012**

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act to provide an appropriation for defraying the expenses of the department of
 2 transportation; to create and enact a new section to chapter 24-01, section 24-02-40.1, a new
 3 section to chapter 24-08, and section 57-43.1-03.2 of the North Dakota Century Code, relating
 4 to the highway performance classification plan, grant or revenue anticipation financing by the
 5 department of transportation, naming of the liberty memorial bridge, and refunds of certain fuels
 6 taxes paid by native Americans; to amend and reenact sections 24-01-03, 24-01-51, 39-04-19,
 7 57-40.3-10, 57-43.1-02, and 57-43.2-02 of the North Dakota Century Code, relating to highway
 8 and bridge maintenance, haying of no-mow areas, motor vehicle registration fees, motor
 9 vehicle excise tax revenue, and motor vehicle fuels and special fuels tax rates; to repeal
 10 section 39-04-39.5 of the North Dakota Century Code, relating to allocation of motor vehicle
 11 registration fees; to provide an effective date; to provide a contingent expiration date; and to
 12 declare an emergency.

13 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

14 **SECTION 1. BASE LEVEL FUNDING INFORMATION.** The amounts identified in this
 15 section represent the base level funding component appropriated to the department of
 16 transportation in section 3 of this Act as follows:

17 Salaries and wages	\$105,222,404
18 Operating expenses	122,902,369
19 Capital assets	512,175,642
20 Grants	<u>44,085,503</u>
21 Total special funds - Base level	\$784,385,918

22 **SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION.** The
 23 amounts identified in this section represent the funding adjustments or enhancements to the

1 base funding level for the department of transportation which are included in the appropriation
2 in section 3 of this Act as follows:

3	Salaries and wages	(\$105,222,404)
4	Operating expenses	(122,902,369)
5	Capital assets	(512,175,642)
6	Grants	(44,085,503)
7	Administration	27,174,242
8	Driver's and vehicle services	20,035,352
9	Highways	863,644,411
10	Fleet services	<u>43,268,038</u>
11	Total special funds - Adjustments/enhancements	\$169,736,125

12 **SECTION 3. APPROPRIATION.** The funds provided in this section, or so much of the
13 funds as may be necessary, are appropriated from special funds derived from federal funds
14 and other income, to the department of transportation for the purpose of defraying the
15 expenses of its various divisions, for the biennium beginning July 1, 2005, and ending June 30,
16 2007, as follows:

17	Administration	\$27,174,242
18	Driver's and vehicle services	20,035,352
19	Highways	863,644,411
20	Fleet services	<u>43,268,038</u>
21	Total special funds appropriation	\$954,122,043

22 **SECTION 4. FULL-TIME EQUIVALENT EMPLOYEES.** The department of
23 transportation is authorized to hire additional full-time equivalent positions for highway
24 construction in addition to those authorized by the legislative assembly when it is cost-effective
25 to hire additional positions for construction and maintenance of highways in lieu of entering into
26 contracts for these purposes. The department of transportation shall notify the office of
27 management and budget and report to the legislative council the additional full-time equivalent
28 positions hired.

29 **SECTION 5. AMENDMENT.** Section 24-01-03 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **24-01-03. Responsibility for state highway system.** The director is responsible for
2 the construction, maintenance, and operation of the state highway system and ~~is authorized to~~
3 may enter into a cooperative agreement with any municipality for the construction,
4 maintenance, or repair of any urban connecting street. The director may not divest the state
5 from responsibility for maintaining the structural integrity of any bridge over a navigable water of
6 this state which is currently maintained by the state unless an agreement is reached with the
7 municipality.

8 The jurisdiction, control, and duty of the state and municipality with respect to such
9 urban connecting streets must be as follows:

- 10 1. The director has no authority to change or establish any grade of any such street
11 without approval of the governing body of such municipality.
- 12 2. The municipality shall maintain at its own expense ~~maintain~~ all underground
13 facilities in such streets and has the right to construct such additional underground
14 facilities as may be necessary in such streets.
- 15 3. The municipality has the right to grant the privilege to open the surface of any such
16 street, but all damage occasioned thereby must ~~promptly~~ be repaired promptly by
17 said municipality at its direction and without cost to the department.
- 18 4. The municipality has exclusive right to grant franchises over, beneath, and upon
19 such streets.

20 **SECTION 6.** A new section to chapter 24-01 of the North Dakota Century Code is
21 created and enacted as follows:

22 **Highway performance classification plan.** To the extent possible, the department of
23 transportation shall implement the highway performance classification plan.

24 **SECTION 7. AMENDMENT.** Section 24-01-51 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **24-01-51. (Effective January 1, 2006 2008) Haying of no-mow areas.**

27 Notwithstanding any other provision of law, a person owning land adjacent to an area within the
28 right of way of a highway which is designated as a no-mow or managed-mow area may hay the
29 no-mow or managed-mow area after July fifteenth without any payment or penalty.

30 **SECTION 8.** Section 24-02-40.1 of the North Dakota Century Code is created and
31 enacted as follows:

1 **24-02-40.1. Grant or revenue anticipation financing.** Notwithstanding any other
2 provision of law, the department, whenever needed for the liberty memorial bridge improvement
3 project and the United States highway 2 project improvements, may arrange with any
4 state-owned or private financing agency or underwriter, including the Bank of North Dakota,
5 grant or revenue anticipation financing through the issuance of evidences of indebtedness on
6 such terms and conditions as the department determines if construction funds on hand are
7 insufficient to meet current obligations or to achieve cost-savings or efficiencies in road
8 construction. The department may refund the evidences of indebtedness as often as it is
9 advantageous to do so. Evidences of indebtedness may be sold at public or private sale and
10 must mature not more than fifteen years from their date or dates, and the proceeds of the sale
11 may be invested on such terms and conditions as the department determines. Grant or
12 revenue anticipation financing must be in amounts no larger than can be repaid from moneys
13 known or reasonably anticipated to be due and forthcoming. The grant or revenue anticipation
14 financing may not be used in anticipation of increased federal aid highway grants or increased
15 state highway user revenue funds, and the financing may not be obligated for road construction
16 that cannot be financed from known sources of grants or revenue. The department may pledge
17 any federal aid grants received or to be received for debt service and related issuance costs for
18 evidences of indebtedness issued under this section directly to a trustee in trust for payment to
19 holders of the evidences of indebtedness. The department may also pledge any biennially
20 appropriated revenues for debt service on the evidences of indebtedness directly to a trustee in
21 trust for payment to holders of the evidences of indebtedness. Any evidences of indebtedness
22 issued under this section are not general obligations or debt of the state, the department, or
23 any public officer or employee of the department or this state. The principal of and interest on
24 the evidences of indebtedness are limited obligations payable solely from grants or revenues
25 received or to be received by the department. The department may capitalize from proceeds of
26 the evidences of indebtedness all expenses incidental to issuing the evidences of
27 indebtedness, including any reserves for payment of the evidences of indebtedness.

28 **SECTION 9.** A new section to chapter 24-08 of the North Dakota Century Code is
29 created and enacted as follows:

1 **Liberty memorial bridge.** A bridge replacing the bridge between Mandan and
 2 Bismarck presently known as the liberty memorial bridge is designated the liberty memorial
 3 bridge upon the completion of the replacement bridge.

4 **SECTION 10. AMENDMENT.** Section 39-04-19 of the North Dakota Century Code is
 5 amended and reenacted as follows:

6 **39-04-19. Motor vehicle registration fees and mile tax.** Motor vehicles required to
 7 pay registration fees or a mile tax shall pay the following fees:

- 8 1. Nonresidents electing to pay mile tax in lieu of registration, when authorized to do
 9 so by the department, shall pay a fee of twenty dollars for a trip permit which is
 10 valid for a period of seventy-two hours. All fees collected under the provisions of
 11 this subsection must be credited to the highway construction fund.
- 12 2. Motor vehicles required to be registered in this state must be furnished license
 13 plates upon the payment of the following annual fees; however, if a motor vehicle,
 14 including a motorcycle or trailer, first becomes subject to registration other than at
 15 the beginning of the registration period, such fees must be prorated on a monthly
 16 basis. The minimum fee charged hereunder must be five dollars:
 - 17 a. Passenger motor vehicles:

	YEARS REGISTERED			
	1st, 2nd, 3rd, 4th, 5th, and 6th Years	7th, 8th, and 9th Years	10th, 11th, and 12th Years	13th and Subsequent Years
19 Gross				
20 Weights				
21 Less than 3,200	\$60 <u>\$70</u>	\$52 <u>\$62</u>	\$44 <u>\$54</u>	\$36 <u>\$46</u>
22 3,200 - 4,499	80 <u>90</u>	68 <u>78</u>	56 <u>66</u>	44 <u>54</u>
23 4,500 - 4,999	98 <u>108</u>	84 <u>91</u>	66 <u>76</u>	50 <u>60</u>
24 5,000 - 5,999	129 <u>139</u>	107 <u>117</u>	85 <u>95</u>	63 <u>73</u>
25 6,000 - 6,999	162 <u>172</u>	133 <u>143</u>	104 <u>114</u>	76 <u>86</u>
26 7,000 - 7,999	195 <u>205</u>	159 <u>169</u>	124 <u>134</u>	89 <u>99</u>
27 8,000 - 8,999	228 <u>238</u>	186 <u>196</u>	144 <u>154</u>	102 <u>112</u>
28 9,000 and over	264 <u>271</u>	212 <u>222</u>	164 <u>174</u>	115 <u>125</u>

29 A house car is subject to registration at the rates prescribed for other vehicles
 30 under this subdivision modified by using the weight applicable to a vehicle
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1	14,001 - 16,000	88 <u>98</u>	75 <u>85</u>	64 <u>74</u>	49 <u>59</u>	48 <u>58</u>
2	16,001 - 18,000	93 <u>103</u>	80 <u>90</u>	68 <u>78</u>	54 <u>61</u>	50 <u>60</u>
3	18,001 - 20,000	96 <u>106</u>	83 <u>93</u>	70 <u>80</u>	52 <u>62</u>	54 <u>61</u>

YEARS REGISTERED

5		1st, 2nd, 3rd,	8th, 9th, 10th,	13th and
6	Gross	4th, 5th, 6th,	11th, and	Subsequent
7	Weights	and 7th Years	12th Years	Years
8	20,001 - 22,000	\$126 <u>\$136</u>	\$100 <u>\$110</u>	\$87 <u>\$97</u>
9	22,001 - 26,000	478 <u>188</u>	448 <u>158</u>	432 <u>142</u>
10	26,001 - 30,000	239 <u>249</u>	497 <u>207</u>	475 <u>185</u>
11	30,001 - 34,000	305 <u>315</u>	250 <u>260</u>	222 <u>232</u>
12	34,001 - 38,000	366 <u>376</u>	299 <u>309</u>	265 <u>275</u>
13	38,001 - 42,000	427 <u>437</u>	348 <u>358</u>	307 <u>317</u>
14	42,001 - 46,000	488 <u>498</u>	396 <u>406</u>	350 <u>360</u>
15	46,001 - 50,000	549 <u>559</u>	445 <u>455</u>	393 <u>403</u>
16	50,001 - 54,000	649 <u>629</u>	503 <u>513</u>	444 <u>454</u>
17	54,001 - 58,000	680 <u>690</u>	552 <u>562</u>	487 <u>497</u>
18	58,001 - 62,000	742 <u>752</u>	604 <u>611</u>	530 <u>540</u>
19	62,001 - 66,000	802 <u>812</u>	649 <u>659</u>	573 <u>583</u>
20	66,001 - 70,000	863 <u>873</u>	698 <u>708</u>	645 <u>625</u>
21	70,001 - 74,000	924 <u>934</u>	747 <u>757</u>	658 <u>668</u>
22	74,001 - 78,000	985 <u>995</u>	796 <u>806</u>	704 <u>711</u>
23	78,001 - 82,000	1,046 <u>1,056</u>	845 <u>855</u>	744 <u>754</u>
24	82,001 - 86,000	1,169 <u>1,179</u>	950 <u>960</u>	834 <u>841</u>
25	86,001 - 90,000	1,294 <u>1,301</u>	1,054 <u>1,064</u>	948 <u>928</u>
26	90,001 - 94,000	1,413 <u>1,423</u>	1,159 <u>1,169</u>	1,005 <u>1,015</u>
27	94,001 - 98,000	1,535 <u>1,545</u>	1,264 <u>1,274</u>	1,093 <u>1,103</u>
28	98,001 - 102,000	1,657 <u>1,667</u>	1,368 <u>1,378</u>	1,180 <u>1,190</u>
29	102,001 - 105,500	1,779 <u>1,789</u>	1,473 <u>1,483</u>	1,267 <u>1,277</u>

c. Notwithstanding the fees provided by subdivision a of subsection 2, only one-half of the increase in registration fees, rounded up to the nearest dollar,

1 resulting from the reclassification of pickup trucks in 2005 from subdivision b
2 of subsection 2 to subdivision a of subsection 2 is effective from July 1, 2005,
3 through June 30, 2007.

4 d. Motorcycles, fifteen dollars.

5 3. Motor vehicles acquired by disabled veterans under the provisions of Public Law
6 79-663 [38 U.S.C. 3901] are exempt from the payment of state sales or use tax
7 and, if paid, such veterans are entitled to a refund. This exemption also applies to
8 any passenger motor vehicle or pickup truck not exceeding ten thousand pounds
9 [4535.92 kilograms] gross weight but shall apply to no more than two such motor
10 vehicles owned by a disabled veteran at any one time.

11 4. Every trailer, semitrailer, and farm trailer required to be registered under this
12 chapter must be furnished registration plates upon the payment of a twenty dollar
13 annual fee. Every trailer, semitrailer, or farm trailer not required to be registered
14 under this chapter must be furnished an identification plate upon the payment of a
15 fee of five dollars. Upon the request of a person with a trailer or farm trailer to
16 whom a registration or identification plate is provided under this subsection, the
17 department shall provide a plate of the same size as provided for a motorcycle.
18 The department shall provide notification of this option to the person before the
19 replacement or issuance of the plate.

20 5. Trucks or combinations of trucks and trailers weighing more than twenty thousand
21 but not more than one hundred five thousand five hundred pounds [more than
22 9071.84 but not more than 47854.00 kilograms] which are used as farm vehicles
23 only, are entitled to registration under the following fee schedule and the provisions
24 of this subsection. Farm vehicles are considered, for the purpose of this
25 subsection, as trucks or combinations of trucks and trailers weighing more than
26 twenty thousand but not more than one hundred five thousand five hundred
27 pounds [more than 9071.84 but not more than 47854.00 kilograms] owned, or
28 leased for at least one year by a bona fide resident farmer who uses the vehicles
29 exclusively for transporting the farmer's own property or other property on a farm
30 work exchange basis with other farmers between farms and the usual local trading
31 places but not in connection with any commercial retail or wholesale business

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1 being conducted from those farms, nor otherwise for hire. In addition to the
 2 penalty provided in section 39-04-41, any person violating this subsection shall
 3 license for the entire license period the farm vehicle at the higher commercial
 4 vehicle rate in accordance with the weight carried by the farm vehicle at the time of
 5 the violation.

6 YEARS REGISTERED

7		1st, 2nd,	7th and	9th and	11th and
8	Gross	3rd, 4th, 5th,	8th	10th	Subsequent
9	Weights	and 6th Years	Years	Years	Years
10	20,001 - 22,000	\$98 <u>\$108</u>	\$84 <u>\$94</u>	\$70 <u>\$80</u>	\$52 <u>\$62</u>
11	22,001 - 24,000	403 <u>113</u>	88 <u>98</u>	73 <u>83</u>	54 <u>64</u>
12	24,001 - 26,000	414 <u>121</u>	94 <u>104</u>	77 <u>87</u>	56 <u>66</u>
13	26,001 - 28,000	422 <u>132</u>	402 <u>112</u>	83 <u>93</u>	60 <u>70</u>
14	28,001 - 30,000	434 <u>141</u>	440 <u>120</u>	89 <u>99</u>	64 <u>74</u>
15	30,001 - 32,000	446 <u>156</u>	423 <u>133</u>	400 <u>110</u>	73 <u>83</u>
16	32,001 - 34,000	456 <u>166</u>	434 <u>141</u>	406 <u>116</u>	77 <u>87</u>
17	34,001 - 36,000	466 <u>176</u>	439 <u>149</u>	442 <u>122</u>	84 <u>91</u>
18	36,001 - 38,000	476 <u>186</u>	447 <u>157</u>	448 <u>128</u>	85 <u>95</u>
19	38,001 - 40,000	486 <u>196</u>	455 <u>165</u>	424 <u>134</u>	89 <u>99</u>
20	40,001 - 42,000	496 <u>206</u>	463 <u>173</u>	430 <u>140</u>	93 <u>103</u>
21	42,001 - 44,000	206 <u>216</u>	474 <u>181</u>	436 <u>146</u>	97 <u>107</u>
22	44,001 - 46,000	216 <u>226</u>	479 <u>189</u>	442 <u>152</u>	404 <u>111</u>
23	46,001 - 48,000	226 <u>236</u>	487 <u>197</u>	448 <u>158</u>	405 <u>115</u>
24	48,001 - 50,000	236 <u>246</u>	495 <u>205</u>	454 <u>164</u>	409 <u>119</u>
25	50,001 - 52,000	256 <u>266</u>	243 <u>223</u>	470 <u>180</u>	423 <u>133</u>
26	52,001 - 54,000	266 <u>276</u>	224 <u>231</u>	476 <u>186</u>	427 <u>137</u>
27	54,001 - 56,000	276 <u>286</u>	229 <u>239</u>	482 <u>192</u>	434 <u>141</u>
28	56,001 - 58,000	286 <u>296</u>	237 <u>247</u>	488 <u>198</u>	435 <u>145</u>
29	58,001 - 60,000	296 <u>306</u>	245 <u>255</u>	494 <u>204</u>	439 <u>149</u>
30	60,001 - 62,000	306 <u>316</u>	253 <u>263</u>	200 <u>210</u>	443 <u>153</u>
31	62,001 - 64,000	316 <u>326</u>	264 <u>271</u>	206 <u>216</u>	447 <u>157</u>

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1	64,001 - 66,000	326 <u>336</u>	269 <u>279</u>	242 <u>222</u>	454 <u>161</u>
2	66,001 - 68,000	336 <u>346</u>	277 <u>287</u>	248 <u>228</u>	455 <u>165</u>
3	68,001 - 70,000	346 <u>356</u>	285 <u>295</u>	224 <u>234</u>	459 <u>169</u>
4	70,001 - 72,000	356 <u>366</u>	293 <u>303</u>	230 <u>240</u>	463 <u>173</u>
5	72,001 - 74,000	366 <u>376</u>	304 <u>311</u>	236 <u>246</u>	467 <u>177</u>
6	74,001 - 76,000	376 <u>386</u>	309 <u>319</u>	242 <u>252</u>	474 <u>181</u>
7	76,001 - 78,000	386 <u>396</u>	317 <u>327</u>	248 <u>258</u>	475 <u>185</u>
8	78,001 - 80,000	396 <u>406</u>	325 <u>335</u>	254 <u>264</u>	479 <u>189</u>
9	80,001 - 82,000	406 <u>416</u>	333 <u>343</u>	260 <u>270</u>	483 <u>193</u>
10	82,001 - 84,000	416 <u>426</u>	355 <u>365</u>	303 <u>313</u>	259 <u>269</u>
11	84,001 - 86,000	436 <u>446</u>	372 <u>382</u>	317 <u>327</u>	274 <u>281</u>
12	86,001 - 88,000	456 <u>466</u>	389 <u>399</u>	334 <u>341</u>	283 <u>293</u>
13	88,001 - 90,000	476 <u>486</u>	406 <u>416</u>	345 <u>355</u>	295 <u>305</u>
14	90,001 - 92,000	496 <u>506</u>	423 <u>433</u>	359 <u>369</u>	307 <u>317</u>
15	92,001 - 94,000	516 <u>526</u>	440 <u>450</u>	373 <u>383</u>	319 <u>329</u>
16	94,001 - 96,000	536 <u>546</u>	457 <u>467</u>	387 <u>397</u>	334 <u>341</u>
17	96,001 - 98,000	556 <u>566</u>	474 <u>484</u>	404 <u>411</u>	343 <u>353</u>
18	98,001 - 100,000	576 <u>586</u>	494 <u>501</u>	415 <u>425</u>	355 <u>365</u>
19	100,001 - 102,000	596 <u>606</u>	508 <u>518</u>	429 <u>439</u>	367 <u>377</u>
20	102,001 - 104,000	616 <u>626</u>	525 <u>535</u>	443 <u>453</u>	379 <u>389</u>
21	104,001 - 105,500	636 <u>646</u>	542 <u>552</u>	457 <u>467</u>	394 <u>401</u>

22 6. A motor vehicle registered in subsection 5 may be used for custom combining
23 operations by displaying identification issued by the department and upon payment
24 of a fee of twenty-five dollars.

25 7. Thirteen dollars of each registration fee collected under subsections 2 and 5 must
26 be deposited in the state highway fund.

27 **SECTION 11. AMENDMENT.** Section 57-40.3-10 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **57-40.3-10. Transfer of revenue.** All moneys collected and received under this
30 chapter must be transmitted monthly by the director of the department of transportation to the
31 state treasurer to be transferred and credited ~~to the general fund.~~ as follows:

- 1 1. The first one hundred fifty million dollars received during a biennium must be
2 deposited in the state general fund.
- 3 2. The first thirty-seven million five hundred thousand dollars received during a
4 biennium exceeding the amount allocated under subsection 1 must be deposited in
5 the state highway fund.
- 6 3. Amounts received in excess of the amount allocated under subsections 1 and 2
7 must be allocated eighty percent to the state general fund and twenty percent to
8 the state highway fund.

9 **SECTION 12. AMENDMENT.** Section 57-43.1-02 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **57-43.1-02. Tax imposed on motor vehicle fuels.**

- 12 1. Except as otherwise provided in this section, a tax of ~~twenty-one~~ twenty-three
13 cents per gallon [3.79 liters] is imposed on all motor vehicle fuel sold or used in this
14 state.
- 15 2. A supplier or distributor shall remit the tax imposed by this section on motor vehicle
16 fuel used, on the wholesale distribution of motor vehicle fuel to a retailer, and on
17 direct sales of motor vehicle fuel to a consumer.
- 18 3. The tax imposed by this section does not apply on a sale by a supplier to another
19 supplier, on a sale by a supplier to a distributor, on a sale by a distributor to
20 another distributor, on an export, or on a sale to an exempt consumer.
- 21 4. The person required to remit the tax imposed by this section shall pass the tax on
22 to the retailer and to the consumer. A retailer who paid the tax to the supplier or
23 distributor shall pass the tax on to the consumer.
- 24 5. The person required to remit the tax imposed by this section shall pay the tax to
25 the commissioner by the twenty-fifth day of the calendar month after the month
26 during which the motor vehicle fuel was sold or used by the person. When the
27 twenty-fifth day of the calendar month falls on a Saturday, Sunday, or legal
28 holiday, the due date is the first working day after the Saturday, Sunday, or legal
29 holiday. When payment is made by mail, the payment is timely if the envelope
30 containing the payment is postmarked by the United States postal service or other
31 postal carrier service before midnight of the due date.

1 6. The commissioner shall pay over all of the money received during each calendar
2 month to the state treasurer.

3 **SECTION 13.** Section 57-43.1-03.2 of the North Dakota Century Code is created and
4 enacted as follows:

5 **57-43.1-03.2. Refund of tax for fuel purchased by native Americans - Fuels tax**
6 **refund reserve fund - Continuing appropriation.**

7 1. A native American may file a claim with the tax commissioner for a refund of motor
8 vehicle fuel taxes paid by that person under this chapter or special fuel taxes paid
9 under chapter 57-43.2 if the motor vehicle fuel or special fuel was purchased from
10 a retail fuel dealer located on the Indian reservation where the native American is
11 an enrolled member and the fuel was delivered to the native American on that
12 reservation. The refund provisions of this chapter apply to refund claims made
13 under this section.

14 2. A fuels tax refund reserve fund is created as a special fund in the state treasury.
15 The tax commissioner shall deposit in that fund such amounts from motor vehicle
16 fuel tax and special fuel tax collections as the attorney general determines
17 necessary to be expended for refunds to which native American government
18 entities may be entitled under qualifying circumstances and conditions determined
19 by the attorney general. There is appropriated as a continuing appropriation out of
20 funds set aside under this subsection so much of the funds as the attorney general
21 determines is necessary to meet the expenditures authorized under this
22 subsection and such funds may be expended for that purpose.

23 **SECTION 14. AMENDMENT.** Section 57-43.2-02 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **57-43.2-02. (Contingent effective date - See note - Effective through June 30,**
26 **2005) Tax imposed.**

27 1. Except as otherwise provided in this chapter, an excise tax of twenty-one cents per
28 gallon [3.79 liters] is imposed on the sale or delivery of all special fuel sold or used
29 in this state. For the purpose of determining the tax upon compressed natural gas
30 under this section, one hundred twenty cubic feet [3.40 cubic meters] of
31 compressed natural gas is equal to one gallon [3.79 liters] of other special fuel.

- 1 The tax under this subsection is reduced by one and five-hundredths cents per
2 gallon [3.79 liters] on the sale or delivery of diesel fuel that contains at least two
3 percent biodiesel fuel by weight.
- 4 2. A supplier, distributor, or retailer shall remit the tax imposed by this section on
5 special fuel used and on direct sales of special fuel to a customer.
- 6 3. The tax imposed by this section does not apply on sales by a supplier to another
7 supplier, on a sale by a supplier to a distributor, on a sale by a distributor to
8 another distributor, on a sale by a distributor to a retailer, on an export, or on a sale
9 to an exempt consumer.
- 10 4. The person required to remit the tax imposed by this section shall pass the tax on
11 to the customer.
- 12 5. The person required to remit the tax imposed by this section shall pay the tax to
13 the commissioner by the twenty-fifth day of the calendar month after the month
14 during which the special fuel was sold or used by the person. When the
15 twenty-fifth day of the calendar month falls on a Saturday, Sunday, or legal
16 holiday, the due date is the first working day after the Saturday, Sunday, or legal
17 holiday. When payment is made by mail, the payment is timely if the envelope
18 containing the payment is postmarked by the United States postal service or other
19 postal carrier service before midnight of the due date.
- 20 6. The commissioner shall pay over all of the money received during each calendar
21 month to the state treasurer.

22 **(Effective after June 30, 2005) Tax imposed.**

- 23 1. Except as otherwise provided in this chapter, an excise tax of ~~twenty-one~~
24 twenty-three cents per gallon [3.79 liters] is imposed on the sale or delivery of all
25 special fuel sold or used in this state. For the purpose of determining the tax upon
26 compressed natural gas under this section, one hundred twenty cubic feet [3.40
27 cubic meters] of compressed natural gas is equal to one gallon [3.79 liters] of other
28 special fuel.
- 29 2. A supplier, distributor, or retailer shall remit the tax imposed by this section on
30 special fuel used and on direct sales of special fuel to a customer.

- 1 3. The tax imposed by this section does not apply on sales by a supplier to another
2 supplier, on a sale by a supplier to a distributor, on a sale by a distributor to
3 another distributor, on a sale by a distributor to a retailer, on an export, or on a sale
4 to an exempt consumer.
- 5 4. The person required to remit the tax imposed by this section shall pass the tax on
6 to the customer.
- 7 5. The person required to remit the tax imposed by this section shall pay the tax to
8 the commissioner by the twenty-fifth day of the calendar month after the month
9 during which the special fuel was sold or used by the person. When the
10 twenty-fifth day of the calendar month falls on a Saturday, Sunday, or legal
11 holiday, the due date is the first working day after the Saturday, Sunday, or legal
12 holiday. When payment is made by mail, the payment is timely if the envelope
13 containing the payment is postmarked by the United States postal service or other
14 postal carrier service before midnight of the due date.
- 15 6. The commissioner shall pay over all of the money received during each calendar
16 month to the state treasurer.

17 **SECTION 15. REPEAL.** Section 39-04-39.5 of the North Dakota Century Code is
18 repealed.

19 **SECTION 16. EFFECTIVE DATE - CONTINGENT EXPIRATION DATE.** Section 13 of
20 this Act is effective for qualifying motor vehicle and special fuel purchases made after
21 December 31, 2004, and is effective until the first day of the first month after the tax
22 commissioner, with the approval of the attorney general, certifies to the governor and the office
23 of the legislative council that an Act of Congress has specifically authorized, or a United States
24 Supreme Court decision has held or may be interpreted to have held, that a state may impose
25 its motor vehicle and special fuel tax laws on native Americans who purchase motor vehicle
26 fuels and special fuels from a retail fuel dealer located on the Indian reservation where the
27 native American is enrolled. Sections 10, 11, 12, and 14 of this Act are effective for
28 registrations and taxable events occurring after June 30, 2005. Section 15 of this Act is
29 effective for registrations occurring after June 30, 2005.

30 **SECTION 17. EMERGENCY.** Section 8 of this Act is declared to be an emergency
31 measure.